



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4204

by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.855 new

Creates the Condominium Ombudsperson Act and amends the State Finance Act. Contains legislative findings and defines terms. Within and under the control of the office of the Attorney General, creates the Office of the Condominium Ombudsperson. Provides that the Ombudsperson shall offer training and educational materials and courses to condominium unit owners, condominium associations, and boards of managers in subjects relevant to the operation and management of condominium property and the rights and duties of a unit owner or unit owners' association. Requires the Ombudsperson to maintain a statewide toll-free telephone number, maintain certain information on the Attorney General's website, and provide information or assistance on matters relating to condominium property. Requires the Attorney General, based upon Ombudsperson recommendations, to report annually to the General Assembly. Provides that every condominium unit owners' association shall pay an annual fee to the Ombudsperson to cover the administration of the Act. Creates the Condominium Ombudsperson Fund as a special fund in the State treasury, to consist of fees received by the Ombudsperson, to be used exclusively for expenditures necessary for the proper administration of the Act. Repeals the Act on July 1, 2017. Effective July 1, 2014.

LRB098 15146 HEP 50122 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning condominium property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Condominium Ombudsperson Act.

6 Section 5. Findings. The General Assembly finds as follows:

7 (1) Managing condominium property is a complex
8 responsibility. Unit owners and persons charged with
9 managing condominium property may have little or no prior
10 experience in managing real property, operating a
11 not-for-profit association or corporation, complying with
12 the law governing condominium property, and interpreting
13 and enforcing restrictions and rules imposed by the
14 condominium instruments or other applicable covenants.
15 Unit owners may not fully understand their rights and
16 obligations under the law, condominium instruments, or
17 other applicable covenants. Mistakes and misunderstandings
18 are inevitable and may lead to serious, costly, and
19 divisive problems. A Condominium Ombudsperson will seek to
20 educate unit owners, condominium associations, and boards
21 of managers as to their legal rights and obligations.
22 Effective education can prevent or reduce the severity of
23 problems within a condominium community.

1 (2) The principal remedy for a violation of condominium
2 property law is private litigation. Litigation is not an
3 ideal remedy for many condominium property disputes,
4 because the disputants are neighbors who must maintain
5 ongoing relationships. The adversarial nature of
6 litigation can disrupt these relationships, creating
7 animosity that degrades the quality of life within the
8 condominium community and makes future disputes more
9 likely to arise. Litigation imposes costs on a condominium
10 community as a whole, costs that must be paid by all unit
11 owners through increased assessments. Many unit owners
12 cannot afford to bring a lawsuit and are effectively denied
13 the benefit of laws designed for their protection. A
14 Condominium Ombudsperson will provide a neutral,
15 nonjudicial forum for resolution of condominium property
16 disputes.

17 (3) Anecdotal accounts of abuses within condominium
18 communities create continuing public demand for reform of
19 condominium property law. This results in frequent changes
20 to the law, making it more difficult to understand and
21 apply and imposing significant transitional costs on
22 condominium communities statewide. By collecting empirical
23 data on the nature and incidence of problems within
24 condominium communities, a Condominium Ombudsperson will
25 provide a sound basis for prioritizing reform efforts,
26 thereby increasing the stability of condominium property

1 law.

2 Section 10. Definitions. As used in this Act:

3 "Board of managers", "condominium instruments", "master
4 association", "unit", "unit owner", and "unit owners'
5 association" have the meanings ascribed to those terms in the
6 Condominium Property Act.

7 "Condominium association" means a unit owners' association
8 or master association.

9 "Office" means the Office of the Condominium Ombudsperson
10 established under Section 15 of this Act.

11 "Ombudsperson" means the Condominium Ombudsperson employed
12 under Section 15 of this Act.

13 "Person" includes a natural person, firm, association,
14 organization, partnership, business trust, corporation,
15 limited liability company, or public entity.

16 Section 15. Office of the Condominium Ombudsperson.

17 (a) There is created in the Office of the Attorney General
18 the Office of the Condominium Ombudsperson under the
19 supervision and control of the Attorney General.

20 (b) Commencing July 1, 2014, the Attorney General shall
21 employ a Condominium Ombudsperson and other persons as
22 necessary to discharge the requirements of this Act. The
23 Ombudsperson shall have the powers delegated to him or her by
24 the Attorney General, in addition to the powers set forth in

1 this Act.

2 (c) The Attorney General, following receipt of
3 recommendations from the Ombudsperson, may adopt rules
4 governing practices and procedures under this Act. Any rule
5 adopted under this Act is subject to the rulemaking provisions
6 of the Illinois Administrative Procedure Act.

7 (d) Information and advice provided by the Ombudsperson has
8 no binding legal effect and is not subject to the rulemaking
9 provisions of the Illinois Administrative Procedure Act.

10 (e) The Attorney General may convene an advisory committee
11 to make recommendations on matters within the Ombudsperson's
12 jurisdiction. The members of the advisory committee shall
13 receive a per diem and expenses as determined by the Attorney
14 General. In selecting the members of an advisory committee, the
15 Attorney General shall ensure a fair representation of the
16 interests involved.

17 (f) The costs of the Office of the Condominium Ombudsperson
18 should be borne entirely by condominium unit owners through the
19 imposition of an annual fee.

20 Section 20. Training and education.

21 (a) The Ombudsperson shall offer training and other
22 educational materials and courses to condominium unit owners,
23 condominium associations, and boards of managers in subjects
24 relevant to the operation and management of condominium
25 property and the rights and duties of unit owners, condominium

1 associations, and boards of managers.

2 (b) The Ombudsperson may charge a fee for training and
3 other educational materials and courses provided under this
4 Section, not to exceed the actual cost of the training or other
5 materials and courses.

6 Section 25. Toll-free number; website.

7 (a) The Office shall maintain a statewide toll-free
8 telephone number to provide information or assistance on
9 matters relating to condominium property.

10 (b) The Office shall maintain on the Attorney General's
11 website the following information:

12 (1) The text of this Act, the Condominium Property Act,
13 and any other statute or regulation that the Ombudsperson
14 determines is relevant to the operation and management of
15 condominium property or the rights and duties of unit
16 owners, condominium associations, and boards of managers.

17 (2) Information concerning nonjudicial resolution of
18 disputes that may arise within a condominium community,
19 including contacts for locally available dispute
20 resolution programs.

21 (3) A description of the services provided by the
22 Ombudsperson and information on how to contact the
23 Ombudsperson for assistance.

24 (4) An analysis, prepared each year, of changes in the
25 law affecting condominium property.

1 (5) Any other information that the Ombudsperson
2 determines is useful to unit owners, condominium
3 associations, and boards of managers.

4 (c) Information described in subsection (b) shall also be
5 made available in printed form. The Office may charge a fee for
6 the purchase of printed materials, not to exceed the actual
7 cost of printing and delivery.

8 Section 30. Members of condominium board of managers or
9 master association.

10 (a) Within 60 days after assuming office as a member of a
11 board of managers or a master association, every member shall
12 certify that he or she has read each of the following:

13 (1) The condominium instruments relating to the
14 condominium property administered by the board of managers
15 or master association.

16 (2) This Act or, if the Ombudsperson prepares a
17 detailed summary of the requirements of this Act, that
18 summary.

19 (b) Each member of a board of managers or a master
20 association shall file the certification required by this
21 Section with the Ombudsperson.

22 Section 35. Dispute resolution assistance.

23 (a) Any interested person may request that the Ombudsperson
24 provide assistance in resolving a dispute between a unit owner

1 and a condominium association or board of managers that
2 involves the law governing condominium property or the
3 condominium instruments relating to a condominium community.

4 (b) On receipt of a request for assistance, the
5 Ombudsperson shall, within the limits of the available
6 resources, confer with the interested parties and assist in
7 efforts to resolve the dispute by mutual agreement of the
8 parties.

9 (c) The Ombudsperson shall not charge a fee for services
10 provided under this Section.

11 Section 40. Reports.

12 (a) The Attorney General shall submit an annual written
13 report on the activities of the Office of the Ombudsperson to
14 the General Assembly, no later than October 1 of each year. The
15 report shall include all of the following information:

16 (1) Annual workload and performance data, including
17 the number of requests for assistance received, the manner
18 in which a request was or was not resolved, and the staff
19 time required to resolve the inquiry. For each category of
20 data, the report shall provide subtotals based on the type
21 of question or dispute involved in the request.

22 (2) Analysis of the most common and serious types of
23 disputes within condominium communities, along with any
24 recommendations for statutory reform to reduce the
25 frequency or severity of those disputes.

1 (b) On or before January 1, 2016, the Attorney General,
2 following receipt of recommendations from the Ombudsperson,
3 shall submit recommendations to the General Assembly on the
4 following topics:

5 (1) Whether the Ombudsperson should be authorized to
6 enforce condominium property law.

7 (2) Whether the Ombudsperson should be authorized to
8 oversee unit owners' association elections.

9 (3) Whether the scope of the application of Section 30
10 of this Act should be narrowed or broadened.

11 (4) Whether the Ombudsperson should provide or
12 subsidize mediation of condominium property disputes.

13 Section 45. Fees.

14 (a) Every condominium unit owners' association shall pay to
15 the Ombudsperson an annual fee as provided in this Section.
16 This fee shall be in addition to any other fees authorized to
17 be charged by the Ombudsperson under this Act. The total fee
18 due from an association under this Section in any year shall be
19 the product of (i) the number of units composing the
20 condominium property administered by the association
21 multiplied by (ii) the annual fee amount for that year
22 determined under subsection (b).

23 (b) The initial annual fee amount to be used in calculating
24 a unit owners' association's fee under this Section shall be
25 \$3. The Ombudsperson, with the Attorney General's approval,

1 shall increase or decrease the annual fee amount every year to
2 provide only the revenue that he or she estimates will be
3 necessary for the Office's operation expenses during the next
4 year. However, the annual fee amount may not exceed \$10.

5 (c) A unit owners' association is excused from paying the
6 fee for a unit if another association has paid the fee for that
7 unit. An association that is excused from paying the fee for a
8 unit shall certify, on a form prescribed by the Ombudsperson
9 for that purpose, that another association has paid the fee for
10 that unit. The Attorney General, following receipt of
11 recommendations from the Ombudsperson, may adopt a rule
12 governing which association is required to pay the fee for a
13 unit that is administered by more than one association.

14 Section 50. Condominium Ombudsperson Fund. All moneys
15 received by the Ombudsperson as fees under this Act shall be
16 deposited into the Condominium Ombudsperson Fund, which is
17 hereby created as a special fund in the State treasury. All
18 moneys in the fund, upon appropriation by the General Assembly,
19 shall be used exclusively for expenditures by the Ombudsperson
20 that are necessary for the proper administration of this Act.

21 Section 85. Repeal. This Act is repealed on July 1, 2017.

22 Section 90. The State Finance Act is amended by adding
23 Section 5.855 as follows:

1 (30 ILCS 105/5.855 new)

2 Sec. 5.855. The Condominium Ombudsperson Fund.

3 Section 99. Effective date. This Act takes effect July 1,

4 2014.